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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,958	08/02/2001	Bruno Couillard	35997-215058	4261
26694	7590	10/26/2006	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			PYZOSHA, MICHAEL J	
			ART UNIT	PAPER NUMBER
			2137	

DATE MAILED: 10/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/919,958

Applicant(s)

COUILLARD, BRUNO

Examiner

Michael Pyzocha

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 16 October 2006. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed 09/15/2006 have been fully considered but they are not persuasive. Applicants argue that there is no motivation to combine the references as stated in the Final Office Action mailed on 05/15/2006.

With respect to the motivation provided by the Examiner to modify Fischer with Goodman Applicant's state that the Examiner has relied upon a circular reasoning, however, the rejection as put forth that's that it would have been obvious to one of ordinary skill in the art to modify the Fischer reference to contain the multiple modes of Goodman. The motivation given is to allow for the checking of processes being performed by the processor, this motivation is not the same as the proposed modification because the use of the different modes of Goodman allows for testing of the actual processes being performed by the processor as opposed to the data being processed as exemplified in column 8 lines 56-59. This is a clear advantage one of ordinary skill in the art would recognize because it allows for the testing of the actual processor as opposed to merely the data being processed.

With respect to the motivation provided by the Examiner to modify the combination of Fischer and Goodman with Menezes Applicants state there is no suggestion in Fischer or Goodman of the desirability of such modification, however, the desirability is shown in Menezes page 494 of creating independence across communication sessions and applications. This was one of four specific motivations given by Menezes to use session keys prefaced by Menezes stating, "Motivation for ephemeral keys includes" and then lists the four reason, one of which is to create independence across communication sessions and applications.

With respect to the motivation provided by the Examiner to modify the combination of Fischer, Goodman, and Menezes with Nakamura Applicants state there is no suggestion of the desirability of such modification, however, as put for previously Nakamura teaches the use of a single key in multiple modes, one of which is a test mode and one of ordinary skill in the art would recognize that using the single key in multiple modes, as taught by Nakamura, allows the system to system to test the secure memory being used. The ability to test anything, including secure memory, has further advantages that a layman would recognize, such as to find errors.

Applicant further argues that the combined references fail to teach using a secure key for both the encryption and testing operations mode and the time stamping mode. However, the combination of Fischer, Goodman, and Menezes teaches the use of multiple keys in an encryption and testing operations mode and a time stamping mode and Nakamura teaches the use of a single key in multiple modes, one of which is testing, and as stated previously it would be obvious to one of ordinary skill in the art to use the single key in multiple modes as taught by Nakamura in the multiple modes of the combination of Fischer, Goodman, and Menezes. Therefore, the combination of Fischer, Goodman, Menezes, and Nakamura teaches all of the limitations of claim 1.